

(N. J. 97.)

MISBRANDING OF CANNED TOMATOES.

(UNDERWEIGHT.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given of the judgment of the court in the case of the United States *v.* 135 cases of canned tomatoes, a proceeding of libel under section 10 of the aforesaid act, lately pending in the district court of the United States for the district of Colorado, for seizure and condemnation of the said canned tomatoes which were misbranded in this, that each case was labeled and branded "2 doz. 2½ lb. Cans Tomatoes from Riverdale Canning Co., Packers of Choice Utah Tomatoes, Riverdale, Utah," whereas the average gross weight of the cans contained therein was only 2 pounds 3 ounces. The Henkel-Duke Mercantile Company, a corporation of Pueblo, Colo., consignee, having entered a claim to the goods and consented to a decree and the case having come on for final hearing on February 23, 1909, the court rendered its decree in substance and in form as follows:

IN THE DISTRICT COURT OF THE UNITED STATES WITHIN AND FOR THE
DISTRICT OF COLORADO.

THE UNITED STATES OF AMERICA

vs.

No. 2233.

ONE HUNDRED AND THIRTY-FIVE CASES OF CANNED TOMATOES.

In this cause, it appearing to the court that (the said United States of America, by Thomas Ward, jr., United States Attorney for the District of Colorado, and The Henkel-Duke Mercantile Company, a corporation, the claimants and owners of the property seized herein, by Charles Henkel, its president, consenting thereto), under the process issued in this cause, one hundred and eleven cases of canned tomatoes were seized by the United States Marshal at the city of Pueblo, in the County of Pueblo, State of Colorado, and that the same were subject to seizure and confiscation by the United States for the causes set forth in the libel herein, that is to say, for the reason that the said cases were misbranded, in this, that the said cases purported to contain two dozen cans of tomatoes, each can containing two and one-half pounds of tomatoes; whereas, in truth and in fact, the said cans in said cases did not contain to exceed thirty-four and two-third ounces of tomatoes, and the said brands upon the said cases were, therefore, misleading and calculated to deceive purchasers;

And it further appearing, by like consent, that said The Henkel-Duke Mercantile Company has agreed that an order may be entered at once, condemning and confiscating said property to the United States, for the reason that the same are misbranded as charged in the libel herein.

It is therefore ordered, adjudged, and decreed that the said property above described, now in the possession of the marshal of the court, be, and the same is hereby, declared to be forfeited and confiscated to the United States.

It is further ordered, however, that upon payment by said The Henkel-Duke Mercantile Company of the costs of this proceeding and the execution and delivery of a good and sufficient bond in the sum of one thousand dollars, to be filed

with the clerk in this cause, conditioned that this property shall not be sold or otherwise disposed of contrary to the provisions of the act (ch. 3915, 59th Congress, 34 Stat. L. 768), commonly known as the "Pure Food and Drugs Act" (Act of June 30, 1906), or contrary to the laws of the State of Colorado, then the marshal of this court is hereby directed to deliver said property to said The Henkel-Duke Mercantile Company, or its agents.

By the court.

ROBT. E. LEWIS, *Judge.*

FEBRUARY 23, 1909.

It is hereby stipulated and agreed that the foregoing order may be entered of record in the above-entitled cause.

THOMAS WARD, Jr.,
United States Attorney for the District of Colorado.
CHARLES HENKEL,
President of the Henkel-Duke Mercantile Company.

The facts in the case were as follows:

On or about January 30, 1909, an inspector of the Department of Agriculture found in the possession of the Henkel-Duke Mercantile Company, Pueblo, Colo., 135 cases (each containing 24 cans) of tomatoes and labeled "2 doz. 2½ lb. Cans Tomatoes from Riverdale Canning Company, Packers of Choice Utah Tomatoes, Riverdale, Utah." These goods had been shipped to the Henkel-Duke Mercantile Company by the Riverdale Canning Company from Ogden, Utah, on October 7, 1907. A number of the cans were weighed by the inspector and the average gross weight of each was found to be 2 pounds 3 ounces. The cases were, therefore, misbranded within the meaning of section 8 of the act, and on January 30, 1909, the facts were reported by the Secretary of Agriculture to the United States attorney for the district of Colorado and libel for seizure and condemnation was duly filed with the results hereinbefore stated.

H. W. WILEY,

F. L. DUNLAP,

Approved:

Board of Food and Drug Inspection.

JAMES WILSON,

Secretary of Agriculture.

WASHINGTON, D. C., *September 23, 1909.*

(N. J. 98.)

ADULTERATION AND MISBRANDING OF SYRUP.

(AS TO PRESENCE OF MAPLE SUGAR.)

In accordance with the provisions of section 4 of the Food and Drugs Act of June 30, 1906, and of regulation 6 of the rules and regulations for the enforcement of the act, notice is given that on the 19th day of April, 1909, in the district court of the United States for the eastern district of Michigan in a prosecution by the United States against E. A. Char-